

AMENDED IN ASSEMBLY MAY 8, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1384

**Introduced by Assembly Members Havice, Baca, Lempert,
and Napolitano**

(Coauthors: Senators Karnette, McPherson, and Watson)

February 28, 1997

An act to add Section 1175 to the Code of Civil Procedure,
relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1384, as amended, Havice. Controlled substances:
unlawful detainer.

Existing law provides for the eviction of a tenant for
unlawful detainer, as specified.

This bill would authorize an action for unlawful detainer to
be brought in the name of the ~~people~~ *People* by a district
attorney, *city prosecutor*, or city attorney, *or by a landlord in
his or her name*, when a tenant is committing or permitting
to exist any illegal drug activity, ~~gang-related activity~~, or drug
related nuisance on or within 1,000 feet of the premises, as
specified. Among other things, the bill would provide for
partial eviction, recovery of costs, imposition of civil penalties,
and the release of law enforcement reports and records to a
landlord, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1175 is added to the Code of Civil
2 Procedure, to read:

3 1175. (a) For purposes of this section, the following
4 definitions shall apply:

5 (1) “Controlled substance” means a drug, substance,
6 or immediate precursor, as listed in the Uniform
7 Controlled Substances Act (Division 10 (commencing
8 with Section 11000) of the Health and Safety Code).

9 (2) “Drug-related nuisance” means any activity
10 related to the possession, sale, use, or manufacturing of a
11 controlled substance that creates an unreasonable
12 interference with the comfortable enjoyment of life,
13 property, and safety of other residents ~~of the premises or~~
14 ~~within a 1,000-foot radius from the boundary line of the~~
15 ~~premises~~. Such activity includes, but is not limited to, any
16 activity commonly associated with illegal drug dealing,
17 such as noise, steady traffic day and night to a particular
18 unit, barricaded units, sighting of weapons, drug
19 loitering, as described in Section 11532 of the Health and
20 Safety Code, or other drug-related circumstances.

21 ~~(3) “Gang-related activity” means any crime in which~~
22 ~~the perpetrator is a known member of a gang, or any~~
23 ~~crime motivated by gang membership in which the~~
24 ~~victim or the intended victim of the crime is a known~~
25 ~~member of a gang.~~

26 ~~(4)~~

27 (3) “Illegal drug activity” means a violation of Chapter
28 6 (commencing with Section 11350) or Chapter 6.5
29 (commencing with Section 11400) of Division 10 of the
30 Health and Safety Code.

31 ~~(5)~~

32 (4) “Landlord” means an owner, lessor, or sublessor,
33 including any person, firm, corporation, partnership, or
34 other entity, who receives or is entitled to receive rent for
35 the use of any rental unit, or the agent, representative, or
36 successor thereof.

37 ~~(6)~~

1 (5) "Premises" means a rental unit and the land on
2 which it and other buildings of a complex are located and
3 any common areas, including, but not limited to, garage
4 facilities, streets, alleyways, stairwells, and elevators.

5 ~~(7)~~

6 (6) "Rental unit" means any dwelling unit, efficiency
7 dwelling unit, guest room, or suite, including single family
8 residences, duplexes, and condominiums. This term shall
9 also include mobilehomes, whether rent is paid for the
10 mobilehome and the land upon which the mobilehome is
11 located, or the rent is paid for the land alone. Further, it
12 shall include recreational vehicles, as defined in Section
13 799.29 of the Civil Code, if located in a mobilehome park
14 or recreational vehicle park, whether rent is paid for the
15 recreational vehicle and the land upon which it is located,
16 or rent is paid for the land alone.

17 ~~(8)~~

18 (7) "Tenant" means a tenant, subtenant, lessee,
19 sublessee, any person entitled to use or occupancy of a
20 rental unit, or any other person residing in a rental unit.

21 ~~(b) A civil action pursuant to this chapter may be~~
22 ~~brought in the name of the people by the district attorney~~
23 ~~or a city attorney of any incorporated city or any city and~~
24 ~~county when a tenant is committing or permitting to~~
25 ~~exist, any illegal drug activity, gang-related activity, or~~
26 ~~drug-related nuisance on the premises or within a~~
27 ~~1,000-foot radius from the boundary line of the premises.~~
28 ~~Such a tenant shall be deemed to have terminated his or~~
29 ~~her lease and the district attorney or city attorney shall,~~
30 ~~upon service of three-days' notice, be entitled to vacate~~
31 ~~the premises.~~

32 ~~(c) Prior to the commencement of any action~~
33 ~~pursuant to this section, the district attorney or city~~
34 ~~attorney shall either obtain the written consent of the~~
35 ~~landlord to pursue the action or personally serve the~~
36 ~~landlord with a written notice, in accordance with Article~~
37 ~~3 (commencing with Section 415.10) of Chapter 4 of Title~~
38 ~~5 of Part 2, requiring the landlord to file an unlawful~~
39 ~~detainer action for the removal of the tenant. If the~~
40 ~~landlord does not file such an action within five court days~~

1 thereafter, or having filed it, does not in good faith
2 diligently prosecute it, the district attorney or city
3 attorney giving the notice may bring a proceeding under
4 this chapter for the removal of the tenant as though the
5 district attorney or city attorney were the landlord of the
6 premises, and the proceeding shall have precedence over
7 any similar proceeding thereafter brought by the
8 landlord or to any action previously brought by him or her
9 and not prosecuted diligently and in good faith.

10 (d) In any proceeding brought under this section, the
11 court may, upon application by the plaintiff, issue a partial
12 eviction ordering the removal of any person, including,
13 but not limited to, members of the tenant's household, if
14 the court finds that the person has committed the activity
15 specified in subdivision (b). Persons removed pursuant to
16 this subdivision shall be permanently barred from
17 returning to or reentering any portion of the entire
18 premises. The court may further order as an express
19 condition of the tenancy that the remaining tenants shall
20 not give permission to or invite any person who has been
21 removed pursuant to this subdivision to return to or
22 reenter any portion of the entire premises.

23 (e) Both the person in possession of the property and
24 the landlord shall be made defendants in a proceeding
25 under this section and a court granting a judgment for
26 possession of the premises pursuant to this section may,
27 in addition to any other order provided by law, make an
28 order imposing and requiring the payment by either or
29 both defendants, of a civil penalty not exceeding five
30 thousand dollars (\$5,000) to the municipality in which the
31 subject premises is located and, the payment of
32 reasonable attorneys' fees and the costs of the proceeding
33 to the plaintiff. In any such case, multiple defendants shall
34 be jointly and severally liable for any payment so ordered
35 and the amounts of such payments shall constitute a lien
36 upon the subject property.

37 (b) *An unlawful detainer action pursuant to this*
38 *chapter may be brought in the name of the People by the*
39 *district attorney, city prosecutor, or city attorney of any*
40 *incorporated city or any city and county, or by a landlord,*

1 in his or her name, when a tenant is committing or
2 permitting to exist, any illegal drug activity or
3 drug-related nuisance on the premises or within a
4 1,000-foot radius from the boundary line of the premises.
5 The tenant shall be deemed to have terminated his or her
6 lease and the district attorney, city prosecutor, city
7 attorney, or landlord shall, upon service of three-days'
8 notice, be entitled to vacate the premises. A tenant shall
9 not be deemed to have terminated his or her lease by
10 reason of the acts of a third party which were not
11 reasonably under his or her power to control or which
12 were committed without the tenant's knowledge.

13 (c) Prior to the commencement of any action
14 pursuant to this section by the district attorney, city
15 prosecutor, or city attorney, he or she shall either obtain
16 the written consent of the landlord to pursue the action
17 or shall personally serve the landlord with a written
18 notice, in accordance with Article 3 (commencing with
19 Section 415.10) of Chapter 4 of Title 5 of Part 2, requiring
20 the landlord to file an unlawful detainer action for the
21 removal of the tenant. The notice shall contain as
22 enclosures sufficient documentation to establish that the
23 tenant is committing or permitting to exist, any illegal
24 drug activity or drug-related nuisance on the premises or
25 within a 1,000-foot radius from the boundary line of the
26 premises. If the landlord does not file such an action
27 within 10 court days of service of the notice, or having
28 filed it, does not, in good faith, diligently prosecute it, the
29 district attorney, city prosecutor, or city attorney giving
30 the notice may bring a proceeding under this chapter for
31 such removal as though the district attorney, city
32 prosecutor, or city attorney were the landlord of the
33 premises, and the proceeding shall have precedence over
34 any similar proceeding thereafter brought by the
35 landlord or to one theretofore brought by him or her and
36 not prosecuted diligently and in good faith.

37 (d) In any proceeding brought under this section, the
38 court may, upon, a showing of good cause, issue a partial
39 eviction ordering the removal of any person, including,
40 but not limited to, members of the tenant's household if

1 *the court finds that the person has committed the activity*
2 *specified in subdivision (b). Persons removed pursuant to*
3 *this subdivision shall be permanently barred from*
4 *returning to or reentering any portion of the entire*
5 *premises. The court may further order as an express*
6 *condition of the tenancy that the remaining tenants shall*
7 *not give permission to or invite any person who has been*
8 *removed pursuant to this subdivision to return to or*
9 *reenter any portion of the entire premises.*

10 *(e) In any action brought by the district attorney, city*
11 *prosecutor, or city attorney, both the person in possession*
12 *of the property and the landlord shall be made*
13 *defendants in the proceeding and a court granting a*
14 *judgment for possession of the premises pursuant to this*
15 *section may, in addition to any other order provided by*
16 *law, make an order imposing and requiring the payment*
17 *by either or both defendants, of reasonable attorney's fees*
18 *and the costs of the proceeding to the plaintiff, and the*
19 *payment of a civil penalty by the landlord not exceeding*
20 *five thousand dollars (\$5,000) to the municipality in*
21 *which the subject premises is located. Any payments*
22 *awarded against the landlord shall constitute a lien upon*
23 *the subject property. A civil penalty shall not be awarded*
24 *if the court finds during or at the conclusion of a court*
25 *proceeding brought pursuant to this section that the*
26 *landlord's failure to file an action was due to a legitimate*
27 *fear of harassment or retaliation and that the landlord had*
28 *advised the district attorney, city prosecutor, or city*
29 *attorney of the reasons for his or her inaction prior to the*
30 *bringing of an action by the district attorney, city*
31 *prosecutor, or city attorney.*

32 *(f) Subject to Sections 293 and 841.5 of the Penal Code,*
33 *the district attorney, city prosecutor, or city attorney may*
34 *release to the landlord, any reports, including arrest*
35 *reports, analyzed evidence reports, search warrants, and*
36 *other crime reports necessary to establish the basis of the*
37 *unlawful detainer action.*

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